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In the Matter of:)	
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Implementation of the Local)	CC Docket No. 96-98
Competition Provisions of the)	
Telecommunications Act of 1996)	
)	

**COMMENTS
OF
WEBLINK WIRELESS, INC.**

The Wireline Competition Bureau of the Federal Communications Commission ("Commission" or "FCC") sought Comments on the Petition by Public Notice, DA 02-2845, released on October 24, 2002. Comments were to be filed by November 25, 2002.

The following is respectfully shown:

I.

INTRODUCTION

WebLink Wireless, Inc. is a leader in the wireless data industry.¹ WebLink has actively participated in earlier proceedings related to Numbering Resource Optimization. In 1994, its predecessor, PageMart, Inc., was one of the Petitioners requesting a declaratory ruling with respect to a service-specific overlay resulting in the Ameritech Order,² in which the Commission declared that take-backs were discriminatory and therefore, unlawful. WebLink participated in the Second Further Notice of Proposed Rulemaking³ phase of the Third Report and Order⁴ proceeding as a member of Personal Communications Industry Association ("PCIA"). Additionally, on March 14, 2002, WebLink filed a Petition for Reconsideration of the Third Report and Order with respect to the Commission's failure to impose a blanket prohibition against mandatory number take-backs in the context of SOs. It also submitted Comments which opposed any possible use of number take-backs in connection with the proposal in the Connecticut

¹ The Dallas-based company provides two-way wireless messaging, wireless email, mobile Internet information, customized wireless business solutions, telemetry, and paging to business and retail customers. WebLink is the wireless data network provider for many of the largest telecommunication companies in the U.S. who resell services under their own brand names. WebLink's multicast network covers approximately 90 percent of the U. S. population and, through roaming agreements, extends throughout much of North America.

² Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois, IAD File No. 94-102, Declaratory Ruling and Order, 10 FCC Rcd 4596, ¶¶20, 37 (1995)("Ameritech Order").

³ Numbering Resources Optimization and Petition for Declaratory Ruling and Request for Expedited Action on July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, CC Docket Nos. 99-200 and 96-98, Second Report and Order, Order on Reconsideration and Second Further Notice of Proposed Rulemaking, 16 FCC Rcd 306(2000) ("Second Report and Order" and "Second FNPRM").

⁴ Numbering Resource Optimization, CC Docket No. 96-98 and CC Docket No. 99-200, Third Report and Order and Second Order on Reconsideration, 17 FCC Rcd 252 (2001)(the "Third Report and Order").

Department of Public Utility Control Petition for Authority to Conduct a Transitional Service Technology-Specific Service Overlay⁵ on June 14, 2002.

II.

BACKGROUND

The California PUC has exempted carriers like WebLink from moving their existing NXX codes from the 310 and 909 numbering plan areas ("NPAs") to the SOs, except on a prospective basis. It is appropriate that paging carriers be exempt. As the FCC noted in its Annual Report,⁶ the subscribership and revenues in the paging/messaging industry have continued to decline. In addition, four of the top five paging companies have filed for bankruptcy under Chapter 11 of the Bankruptcy Code, 11 U.S.C. §§101 et seq since January 1, 2000.⁷ It is clear then that the paging industry cannot afford any additional costs associated with regulatory decisions. Any disruption to its existing client base caused by NXX changes would inevitably cause additional churn in an industry that can ill afford it.

III.

DISCUSSION

A. SOs

While WebLink appreciates that the California Public Utilities Commission ("California" or "CPUC") exempts paging companies from the requirement to move the existing NXX codes held by all wireless carriers from the 310 and 909 number plan areas

⁵ Public Notice, DA 02-1292, released on May 31, 2002.

⁶ Annual Report and Analyses of Competitive Market Conditions With Respect to Commercial Mobile Services, 17 FCC Rcd 12985, 13049-13050 (2002)("Seventh Report").

⁷ Id.

("NPAs") to the proposed SOs, it remains concerned about discriminatory action toward wireless carriers since WebLink will be subject to the wireless carrier SOs on a going forward basis.

The FCC's Third Report and Order, requires as an initial matter, that the state must "discuss why the numbering resource optimization benefits of the proposed SO would be superior to implementation of an all-services overlay."⁸ It is not clear from its Petition why California believes that an SO would be preferable over an all-services overlay, it simply starts from the premise that area code relief would result from SOs.

Although California did file a Petition for waiver to possibly use SOs in 1999, it was less than committed to the concept ("California is making this request so that we can maximize the options available to gain control of the ongoing number crisis we face.")⁹ Further, it added that "A reasonable solution to this problem is to create a more efficient allocation, mechanism, such as number pooling."¹⁰ Number pooling begins on November 24, 2002.

Other circumstances have changed also. The California waiver petition was filed in the middle of the numbering crisis. In August, 2002, the Fourth North American Numbering Plan Administration ("NANPA") Report stated that in the third quarter of 2001, carriers returned 16 million telephone numbers to the NANPA; in the fourth quarter of 2001, carriers returned 14 million telephone numbers to the NANPA; and in

⁸ Third Report and Order at ¶80.

⁹ Petition for Waiver to Implement a Technology-Specific or Service-Specific Area Code, NSD File L-97-42, filed on April 26, 1999 at 1.

¹⁰ Petition for Waiver to Implement a Technology-Specific or Service-Specific Area Code at 6.

the first quarter of 2002, carriers returned 12 million telephone numbers to the NANPA.¹¹ This is not to deny that there is a numbering crisis in California or that new area codes will be needed to accommodate additional communications services; however, there is not enough information from California to justify SOs or to eliminate the possibility of an all-services overlay.

WebLink submits that if area code relief is necessary, the relief mechanisms should be imposed on all carriers and customers through the form of an all-services overlay. An all-services overlay is just as effective at area code relief as an SO since it provides quick relief, with an initial overlay implemented in approximately six months.¹² Subsequent all-service overlays in the same area can be implemented even more rapidly.¹³ All-service overlays allow NXX codes to be used more efficiently and the available NXXs can be used to satisfy demand throughout the area to all services as needed. All-service overlays also conserve NPAs when subsequent relief becomes necessary, because NXX codes can be granted as needed.

Most importantly, however, an all-services overlay is the most consistent with the FCC's current numbering guidelines, which require that numbering administration: (1) facilitate entry into the telecommunications marketplace by making telecommunications numbering resources available on an efficient, timely basis to telecommunications carriers; (2) *not unduly favor or disfavor any particular industry segment or group of*

¹¹ Public Notice, FCC Releases Telephone Numbering Resource Utilization Report, released on August 1, 2002, citing Numbering Resource Utilization in the United States As of December 31, 2001, released August 1, 2002.

¹² North American Numbering Council ("NANC"), Number Resource Optimization, §12.1.3(Oct. 20, 1998)("NANC Report").

¹³ Id.

*telecommunications consumers; and (3) not unduly favor one telecommunications technology over another.*¹⁴ (Emphasis added.)

It is not equitable to submit the wireless industry to immediate disruptions and hardships while allowing the wireline industry to prepare for an area code change over a two year timeframe. Such treatment is, on its face, discriminatory. Although the FCC has recently stated that "the benefits of making more numbering resources available through SOs may, in some circumstances, outweigh their potential discriminatory effect,"¹⁵ it is not shown here why this circumstance would outweigh the discriminatory effect, competitive disadvantage and the resulting costs imposed upon the wireless industry. The fact that the life of the underlying NPA may be slightly extended does not justify the negative effect on one particular industry.

It is the FCC's statutory obligation to ensure that numbering resources are made available to all carriers on an "equitable basis."¹⁶ California's Petition offers the FCC an opportunity to interpret the new guidelines for the potential implementation of SOs. The guidelines must be equitably applied because the FCC's response will provide guidance to carriers, states, and other interested parties about how future SO proposals will be implemented. The FCC must find that California has not provided a meaningful explanation as to why the benefits of an SO, which would unduly favor the wireline industry and disfavor the wireless industry, would outweigh the unarticulated disadvantages of an all-services overlay.

¹⁴ 47 C.F.R. § 52.9(a).

¹⁵ Third Report and Order at ¶72.



B. Take-Backs

WebLink has been exempted in California's proposal for area code changes for existing numbers. Nevertheless, in response to California's question of what constitutes a "take-back," WebLink submits that, in its operations, a change in area code would be considered a take-back. For example, WebLink, and its customers, would be adversely affected by a change in area code because it would require WebLink: (i) to expend time, effort and financial resources to reprogram its infrastructure equipment, as well as its operational support systems, including its billing and records database and; (ii) to change its customers' area code would cause major interference with its customer relations and the inevitable loss of customers. In the current email driven environment, a number has become an address. These numbers are used to contact individuals via email as well as being printed on customer cards, letterhead and brochures. If an area code is changed, the customer must reprint these materials and notify all email and other contacts that the number has changed, since there is generally no referral informing the caller of the number change. This would create significant hardship for wireless customers.

Because the same disruptions will occur with an area code change as with NXX code changes, WebLink considers the proposed change in area code to be a number take-back.

C. Ten -Digit-Dialing

¹⁶ 47 U.S.C. § 251(e)(1).

California states that "We do not believe ten-digit dialing would be necessary in either the SOs or the underlying area codes" since the competitive concerns that prompted the requirement have abated.

Nevertheless, should California find that ten-digit dialing is necessary, WebLink seeks assurances that there would be complete dialing parity in connection with any ten-digit dialing implementation. If California does not contemplate dialing parity in that scenario, WebLink then opposes the implementation on the basis that such a plan would violate prohibitions against unjust or unreasonable discrimination in FCC Rule Section 52.9(a) since it would require some subscribers to be burdened by ten-digit dialing.

IV.

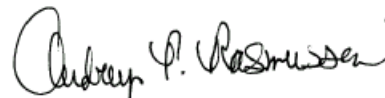
CONCLUSION

WHEREFORE, For the foregoing reasons, WebLink Wireless respectfully requests that the Commission consider its Comments in the above-referenced proceeding.

Respectfully submitted,

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